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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/576,290	05/23/2000	Shuji Hinuma	47176-DIV(342)	4462

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EXAMINER

ROMEO, DAVID S

ART UNIT	PAPER NUMBER
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1647

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DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/576,290

Applicant(s)

HINUMA ET AL.

Examiner

David S Romeo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-27 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *See Continuation Sheet*.

Continuation of Attachment(s) 6). Other: Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures and Raw Sequence Listing Error Report .

### DETAILED ACTION

The amendment filed September 4, 2002 (Paper No. 16) has been entered.

5 The terminal disclaimer filed on September 4, 2002 (Paper No. 17) disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,228,984 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claims 21-27 are pending and allowable.

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### *Conclusion*

This application is in condition for allowance except for the following formal matters:

15 The preliminary amendment filed June 23, 2000 (Paper No. 6) indicates that U.S. patent application serial no. 08/776,971 is a continuation of PCT/JP96/03821. However, the face of U.S. Patent 6,228,984 (the patent that issued from 08/776,971) indicates that 08/776,971 is a 371 of PCT/JP96/03821. Where a nonprovisional application is claiming the benefit under 35 U.S.C. 120 of a prior national stage application under 35 U.S.C. 371,  
20 a suitable reference would read "This application is a continuation of U.S. Application No. 08/---, filed ---, which was the National Stage of International Application No. PCT/DE95/---, filed ---."

Correction is required.

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This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth below and/or on the attached Notice To

5 Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

The paper copy of the sequence listing is not the same as the computer readable form of the sequence listing as required by 37 CFR 1.821(e). Specifically, the paper copy of the sequence listing contains 94 sequences whereas the computer readable form of the

10 sequence listing contains 140 sequences.

The specification fails to recite the appropriate sequence identifiers at each place where a sequence is discussed. See, for example, figure 6 and page 126, lines 11-13. This is not meant to be an exhaustive list of places where the specification fails to comply with the sequence rules. The specification has not been checked to the extent necessary

15 to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification. ***The application cannot issue until it is in compliance.*** Nucleic acid sequences with 10 or more nucleotides, at least 4 of which are specifically defined, must comply with the sequence rules. Amino acid sequences with 4 or more residues, at least

20 4 of which are specifically defined, must comply with the sequence rules. Sequence identifiers can also be used to discuss and/or claim parts or fragments of a properly presented sequence. For example, language such as "residues 14 to 243 of SEQ ID NO:23" is permissible and the fragment need not be separately presented in the

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"Sequence Listing." Applicant may bring the figure(s) into compliance by amending either the figure(s) or the "Brief Description of the Drawings" to recite the appropriate sequence identifier.

Correction is required. If the corrections are extensive and/or could lead to confusion and mistake during the issue and printing processes, the specification may be required to be rewritten before passing the case to issue.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

ANY INQUIRY CONCERNING THIS COMMUNICATION OR EARLIER COMMUNICATIONS FROM THE EXAMINER SHOULD BE DIRECTED TO DAVID S. ROMEO WHOSE TELEPHONE NUMBER IS (703) 305-4050. THE EXAMINER CAN NORMALLY BE REACHED ON MONDAY THROUGH FRIDAY FROM 7:30 A.M. TO 4:00 P.M.

IF ATTEMPTS TO REACH THE EXAMINER BY TELEPHONE ARE UNSUCCESSFUL, THE EXAMINER'S SUPERVISOR, GARY KUNZ, CAN BE REACHED ON (703) 308-4623.

IF SUBMITTING OFFICIAL CORRESPONDENCE BY FAX, APPLICANTS ARE ENCOURAGED TO SUBMIT OFFICIAL CORRESPONDENCE TO THE FOLLOWING TC 1600 BEFORE AND AFTER FINAL RIGHTFAX NUMBERS:

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CUSTOMERS ARE ALSO ADVISED TO USE CERTIFICATE OF FACSIMILE PROCEDURES WHEN SUBMITTING A REPLY TO A NON-FINAL OR FINAL OFFICE ACTION BY FACSIMILE (SEE 37 CFR 1.6 AND 1.8).

FAXED DRAFT OR INFORMAL COMMUNICATIONS SHOULD BE DIRECTED TO THE EXAMINER AT (703) 308-0294.

ANY INQUIRY OF A GENERAL NATURE OR RELATING TO THE STATUS OF THIS APPLICATION OR PROCEEDING SHOULD BE DIRECTED TO THE GROUP RECEPTIONIST WHOSE TELEPHONE NUMBER IS (703) 308-0196.



DAVID ROMEO  
PRIMARY EXAMINER  
ART UNIT 1647

DSR  
AUGUST 14, 2003